



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 5681-99

10 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 29 August 1972.

Your record reflects that during the period from 13 June 1973 to 27 February 1975 you received nonjudicial punishment (NJP) on three occasions. The offenses were absence from your appointed place of duty, sleeping on post, disobedience, insubordination, and two days of unauthorized absence (UA). You were also convicted twice by special court-martial (SPCM). The offenses were assault, absence from your appointed place of duty, two incidents of disobedience, possession of heroin, and disrespect. You were convicted by summary court-martial (SCM) of a 53 day period of UA.

Your record further reflects that in February 1975 you were convicted by civil authorities of false imprisonment and sentenced to confinement for two years and probation for two years. Shortly thereafter, on 5 March 1975, you were notified of pending administrative separation by reason of misconduct due to civil conviction and frequent involvement of a discreditable

nature with military and civil authorities. You waived your rights to consult with legal counsel and to have your case considered by an administrative discharge board. On 8 April 1975 your commanding officer recommended you be issued an undesirable discharge by reason of misconduct due to civil conviction. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an undesirable discharge. On 18 April 1975 you were so discharged.

The Board, in its review of your entire record and application considered all mitigating factors, such as your good post service conduct and your contention that you would like your discharge upgraded based partially on your positive steps toward self-improvement and the passage of time. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct in both the military and civil communities. Further, no discharge is upgraded merely because of the passage of time. Given all the circumstances of your case the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director